

the Corporation would act as the sole general partner, owning a 50.01% partnership interest. Pursuant to the TDS Agreement, Thompson granted to TDS, upon payment of \$250,000, an option to acquire all of the stock in the Corporation for \$810,000.

C. The Second Amendment modified the structure of the limited partnership and provided that the Corporation would be the sole general partner, owning a 10.01% general partnership interest, and that Thompson would own a 40% limited partnership interest. Pursuant to the Second Amendment, upon payment of \$60,000 Thompson granted to TDS the option to purchase the general partnership interest of the Corporation and his limited partnership interest for the total sum of \$750,000.

D. Ancell Atlantic has offered an Agreement to Thompson to provide for the construction of, switch maintenance services for and other matters pertaining to the System (the "Agreement"). Paragraph 16 of the Second Amendment, however, purports to require Thompson to obtain TDS's prior approval before entering into the Agreement, which approval shall not be unreasonably withheld. TDS has refused to approve the Agreement, although it has not given any reasonable reasons for failing to give such approval. In addition, Thompson's FCC counsel has advised Thompson that the provisions of Paragraph 16 of the Second Amendment may be invalid and unenforceable under FCC rules and regulations and that paragraph 16 should be stricken from the Second Amendment in order to protect Thompson's Application.

E. Thompson has determined that it would be in the best interest of the System and of all persons who are to own an interest in the System to enter into the Agreement with Amcell Atlantic, that to do so will further his Application to the FCC, and that to fail to do so could jeopardize his Application to the FCC. Accordingly, Thompson intends to execute and deliver the Agreement, provided Amcell and Amcell Atlantic indemnify Thompson and the Corporation and hold them harmless from claims, costs and liabilities as provided in this Indemnity Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, Amcell and Amcell Atlantic, jointly and severally, agree as follows:

1. Indemnity. Amcell and Amcell Atlantic, jointly and severally, agree to defend, indemnify, and hold Thompson and the Corporation, and each of them, harmless from all claims, liabilities, obligations, suits, causes of action, administrative proceedings, losses, damages, costs and expenses (including reasonable attorney fees) of every kind arising from or relating to the execution and delivery of the Agreement by Thompson and the Corporation or the filing by Amcell or Amcell Atlantic of any petition, request or other pleading or matter with the FCC. Without limiting the generality of the foregoing Amcell and Amcell Atlantic, jointly and severally, agree:

(a) To reimburse Thompson and/or the Corporation for all attorney fees reasonably incurred by Thompson and/or the Corporation in connection with the execution of the Agreement or

in connection with lawsuits, administrative hearings or proceedings or any other litigation or contest that might be commenced as a proximate result of the execution and delivery of the Agreement by Thompson and the Corporation;

(b) To reimburse Thompson and/or the Corporation for any sums Thompson and/or the Corporation may be required to pay to TDS in the event TDS asserts any claim or files any lawsuit or action against Thompson or the Corporation as a proximate result of their execution and delivery of the Agreement, including any amount Thompson and/or the Corporation pay in settlement of any such claim, suit or action and including any sums received by Thompson under the TDS Agreement or Second Amendment which Thompson is required to repay to TDS; and

(c) To pay to Thompson the sum of \$750,000 in the event Thompson's Application is denied, directly or indirectly, as a proximate result of the execution of the Agreement by Thompson and the Corporation or as a proximate result of any petition, request or other pleading or matter filed by Amcell or Amcell Atlantic with the FCC.

The preceding indemnification is given and effective only on the condition that Thompson and/or the Corporation (as appropriate) promptly notifies Amcell and Amcell Atlantic in writing of the assertion of any demand or claim or the filing of any lawsuit or action giving rise to an indemnification obligation hereunder, and on the further condition that Thompson and/or the Corporation cooperates fully with Amcell and Amcell Atlantic in connection

therewith, including giving Ancell and Ancell Atlantic sole control over the defense and settlement of the same and to negotiate for any settlement or compromise thereof; provided, however, that (i) Ancell and Ancell Atlantic shall keep Thompson and/or the Corporation (as appropriate) fully informed as to the status of such matter and shall furnish copies of all pleadings to Thompson and the Corporation; (ii) neither Ancell nor Ancell Atlantic will have the power or authority to settle any such matter in a manner which will result in any liability to Thompson or the Corporation or which will infringe upon or impair any contract or other rights of Thompson or the Corporation; and (iii) Thompson's counsel will represent Thompson before the FCC.

2. FCC. Following execution of the Agreement, Ancell and Ancell Atlantic agree that neither they, their affiliates, nor any optionees acting in concert with any of them, will oppose Thompson's Application. Thompson acknowledges that Ancell and/or Ancell Atlantic may file with the FCC a request that the FCC, in connection with a grant of Thompson's Application, abrogate the provisions of paragraph 16 of the Second Amendment. Such acknowledgement by Thompson shall not limit the indemnification provided herein or the obligations of Ancell and Ancell Atlantic hereunder.

3. Entire Agreement. This Indemnity Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements.

This Option Agreement may not be changed or amended except in writing signed by all parties.

4. Assignment. This Indemnity Agreement shall be binding upon, and shall inure to the benefit of, the assigns and estates of the individual parties, and their respective administrators, executors or personal representatives, heirs or devisees, or successors in interest.

5. Counterparts. This Indemnity Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute and be the same instrument.

6. Governing Law. This Indemnity Agreement shall be governed by the laws of the State of Oregon.

7. Attorney Fees. In the event suit or action is instituted to enforce or interpret any term or provision of this Indemnity Agreement, the prevailing party shall be entitled to recover from the losing party such amount as the court shall deem reasonable as attorney fees, at trial and on appeal, in addition to all other amounts provided by law.

IN WITNESS WHEREOF, Ancell and Ancell Atlantic have

executed this Indemnity Agreement in favor of Thompson and the Corporation as of the date first above written.

AMERICAN CELLULAR NETWORK CORP.

By _____
Sidney Azeez, Chairman

AMCELL OF ATLANTIC CITY, INC.

By _____
Sidney Azeez, Chairman

AGREED AND ACCEPTED:

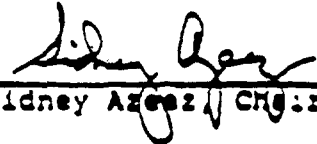

Ellis Thompson

ELLIS THOMPSON CORPORATION

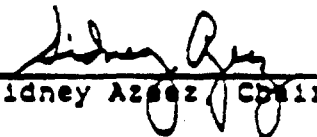
By 
Ellis Thompson, President

executed this Indemnity Agreement in favor of Thompson and the Corporation as of the date first above written.

AMERICAN CELLULAR NETWORK CORP.

By 
Sidney Azeez, Chairman

AMCELL OF ATLANTIC CITY, INC.

By 
Sidney Azeez, Chairman

AGREED AND ACCEPTED:

Ellis Thompson

ELLIS THOMPSON CORPORATION

By Ellis Thompson, President

AMENDMENT NO. 1 TO
INDEMNITY AGREEMENT AND
CONTINGENT OPTION AGREEMENT

THIS AMENDMENT NO. 1 is made on September 8, 1988 between AMERICAN CELLULAR NETWORK CORPORATION and AMCELL OF ATLANTIC CITY, INC., New Jersey corporations, having offices at One Belmont Avenue, Bala Cynwyd, Pennsylvania 19004, and ELLIS THOMPSON and ELLIS THOMPSON CORPORATION, with an address at 5406 North Missouri Avenue, Portland, Oregon 97217. All capitalized terms used in this Amendment No. 1 (the "Amendment", that are defined terms in the "Contingent Option Agreement" and the "Indemnity Agreement", each dated as of December 30, 1987 between the parties herein shall have the same meaning ascribed to them therein unless otherwise specified herein.

WITNESSETH:

WHEREAS, the parties desire to amend and clarify the aforementioned Contingent Option Agreement and Indemnity Agreement, as more specifically set forth herein.

NOW, THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

1. The Indemnity Agreement is hereby amended by adding the following new subparagraph (d) to Section 1:

(d) To pay to Thompson the sum of \$1,500,000 in the event Thompson's authorization to construct the System is revoked by the FCC, directly or indirectly as a proximate result of the execution by Thompson and the Corporation of "Amendment No. 1 to the Agreement" dated as of September 8, 1988, and such revocation is no longer subject to administrative or judicial reconsideration or review.

2. The Indemnity Agreement is hereby amended by adding the following new Section 8:

8. As used in this Indemnity Agreement, all references herein to the "Agreement" (as herein above defined) shall include all amendments thereto.

3. The Contingent Option Agreement is amended by adding to Section 1 the following additional "Option Event" as clause (iv):

or, (iv) Ancell Atlantic acquires on or before September 8, 1993, TDS's option rights under the TDS agreement, as amended, or acquires all or any portion of Thompson's interest in the System from TDS after TDS has exercised such option rights.

4. Section 4 of the Contingent Option Agreement is deleted, and the following Section 4 is substituted therefor:

4. Option Price. In the event either the Thompson Option or the Ancell option is exercised, Ancell Atlantic agrees to pay to Thompson at the closing the sum of One Million Five Hundred Thousand and no/100 (\$1,500,000.00) Dollars, proportionately reduced in the event and to the extent that Ancell Atlantic acquires less than Thompson's entire 50.01 percent interest, and less any sums paid to Thompson by any party other than Ancell or Ancell Atlantic after September 8, 1988 in respect of the interests acquired by Ancell Atlantic. Payment shall be made in full in immediately available funds, and shall be in addition to the cancellation of the loans provided for in Section 3. Ancell Atlantic also agrees to assume at the closing any and all obligations of the System to which the interests of Thompson and/or the Corporation that Ancell Atlantic is acquiring may be subject.

5. The Contingent Option Agreement is amended by deleting the first sentence of Section 5, and substituting the following therefor:

In the event either the Thompson Option or the Ancell Option is exercised, in addition to paying to Thompson the option price, Ancell Atlantic agrees to pay royalties to Thompson annually for four years after closing an amount equal to \$100 times the net increase in Ancell System customers, or at Thompson's option exercisable on or before the closing, a lump sum payment of \$700,000 in lieu thereof, in either case proportionately reduced in the event and to the extent that Ancell Atlantic acquires less than Thompson's entire 50.01 percent interest.

6. The Contingent Option Agreement is amended by deleting from the second sentence of Section 5 the language following the semi-colon beginning with the words "provided, however ..." and substituting the following therefor:

provided, however that the "net increase in Amcell System customers" determined as of the first anniversary of the closing shall be the difference between the total number of System customers as of that date and the total number of customers that Amcell Atlantic had as a reseller on the Bell Atlantic Cellular System for the Atlantic City MSA as of December 30, 1987.

7. Except as expressly set forth in this Amendment, the terms and conditions of the Indemnity Agreement and Contingent Option Agreement shall remain in full force and effect without modification.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Amendment No. 1 on the date first above written.

AMERICAN CELLULAR NETWORK CORP.,

By: 

President

AMELL OF ATLANTIC CITY, INC.

By: 

President


ELLIS THOMPSON

ELLIS THOMPSON CORPORATION

By: 

DECLARATION OF ELLIS THOMPSON

I, ELLIS THOMPSON, hereby declare the following:

1. I am the President, sole shareholder and sole director of the Ellis Thompson Corporation ("ETC"). I make this declaration on the basis of my personal knowledge.

2. In 1986, I entered the FCC Lottery to obtain the license to construct and operate a cellular mobile telephone system in three different markets, including the Atlantic City, New Jersey, MSA. I had learned about the Lottery from a broker when I asked about the possibility of investing in the cellular telephone industry. I thought the future looked very bright for this industry and the opportunity to own a license to build and operate a system was very intriguing to me. Although I had no technical background in this industry, I believed that if any of my applications were selected, I would have been able to hire the necessary experts to assist me in constructing and operating a cellular system.

3. Shortly thereafter, I entered into the CMS Agreement with other applicants for the Atlantic City, New Jersey, cellular system. The CMS Agreement provided that the ownership interest in the application selected was to be divided among the applicants. The selectee was to receive a 50.01% controlling interest, and the other applicants would get a pro rata share of the remaining 49.99%. The agreement also contained a provision prohibiting the selectee from transferring control of the system

without the approval of persons holding at least two-thirds of the equity.

4. On June 13, 1986, I was named as the "tentative selectee" for the Atlantic City, New Jersey, MSA.

5. Shortly thereafter, I entered into an Option Agreement with TDS, under which a TDS subsidiary (USCC) would design, finance, construct and operate the Atlantic City system, subject to my control, and would have an option to buy my interest in the Atlantic City, New Jersey, cellular system. After the FCC issued new guidelines regarding control issues, we amended the Option Agreement to delete the requirement that USCC would design, finance, construct and operate the system.

6. I then began to explore the alternatives for operating the Atlantic City system in anticipation of a grant of my application. Around January 1987, I began to have discussions with Amcell about the possibility of switching the Atlantic City system from Amcell's Motorola switch in the adjacent Wilmington market. I learned that in order to develop a seamless system that would allow customers to "roam" to adjacent markets without having their calls dropped, I would need to use equipment compatible with the surrounding markets, which were using Motorola equipment. This was a key issue because incompatible equipment would put the system at a serious marketing disadvantage with the wireline system of Bell Atlantic which had contiguous coverage in New Jersey and surrounding markets.

7. At the time, TDS was using Northern Telecom switching equipment in its markets, and wanted me to use Northern Telecom equipment in Atlantic City. However, Northern Telecom equipment would not have been compatible with surrounding markets. TDS was concerned about the prospect of entering into a switching arrangement with Amcell, which might tie TDS into a Motorola network after it exercised its option. The issue of network compatibility was a source of great friction between TDS and Amcell. Nevertheless, purchasing switching services from Amcell's Motorola switch had four advantages.

8. First, all of the major markets in the Northeastern urban corridor (i.e. Boston, New York, Baltimore-Washington) utilized Motorola network equipment, including the Philadelphia non-wireline system which was then owned by Metromedia.

9. Second, there were significant savings in purchasing switching services rather than buying a switch.

10. Third, using Amcell's pre-existing switch allowed the system to begin operations much earlier than if an independent switch had to be ordered and installed. I wanted to avoid any delay because the system's wireline competitor was already operational, so delay would have increased the competitive disadvantage.

11. Fourth, I was able to negotiate what was then a financially favorable agreement for switch sharing (\$.05 per minute).

12. Amcell also offered to supervise the construction of the system. Amcell seemed very qualified and agreed to construct the system at a guaranteed maximum cost several hundred thousand dollars less than TDS's lowest estimate.

13. Based on these marketing and economic considerations, I entered into the Construction and Switching Agreement with Amcell. That agreement was Exhibit 1 to my deposition. TDS refused to consent to ETC's entry into the Construction and Switch Agreement.

14. When Amcell and I negotiated the Construction and Switching Agreement, I wanted to be sure that the Atlantic City system achieved compatibility as part of the maximum construction cost guarantee offered by Amcell. Accordingly, my attorney inserted language into the "Outline System Configuration" attached as schedule A to the Construction and Switching Agreement specifying that the system would be "automatically" part of the "wide area Delaware Valley non-wireline cellular system." This phrase, "wide area Delaware Valley non-wireline cellular system" was simply a vernacular description of the competitive advantage sought by construction of an independent, yet compatible system. The Motorola "DMX" feature (also specified in the Outline System Configuration) permitted inter-system roaming and customer validation between adjacent systems, including the Philadelphia system which was then owned by Metromedia.

15. Although I was convinced that use of Amcell's Wilmington switch was in the system's best interest, I was concerned that TDS might take action adverse to me in court or before the FCC. As a result, I entered into two other agreements simultaneously with the execution of the Construction and Switching Agreement. Under the first, an Indemnity Agreement, Amcell agreed to reimburse me for my litigation expenses related to the TDS controversy and indemnify me if my application was denied or my license revoked as a result of the execution of the Construction and Switch Sharing Agreement or as the result of any litigation instituted by TDS. I also entered into a Contingent Option Agreement, which gave Amcell an option to buy my interest in the system in the event TDS did not or could not exercise its option. These provisions were intended to protect me from any adverse consequences of entering into the Construction and Switching Agreement with Amcell, an action which I considered to be in the system's best interest in light of threats by TDS that it might take action adverse to me either in court or before the FCC. These contingent agreements were not intended to transfer control of the system, nor did they ever do so.

16. On June 24, 1988, the FCC granted my application to construct and operate the non-wireline cellular system in Atlantic City.

17. Shortly after entering into the Construction and Switching Agreement with Amcell, Amcell was purchased by Comcast. On July 7, 1988, my attorney, David Lokting, and I flew to Bala

Cynwyd, Pennsylvania, to meet the Comcast CEO and some of the personnel. I was impressed with the senior management of Comcast personally, and with their qualifications and business success. At the meeting, we discussed the possibility of having Amcell (now a subsidiary of Comcast) manage the Atlantic City cellular system once it was built. It was apparent to me that the system would require a competent, on-site management team to carry out the day-to-day operation of the system, because I did not have the knowledge and experience to do so myself. We requested Amcell to send us materials outlining Amcell's management expertise and a detailed design plan.

18. Amcell seemed especially qualified to serve as the manager for three reasons. First, Amcell was the owner of three adjacent systems, and was a reseller for the wireline system in Atlantic City. Thus, it knew the market, knew the competition, and had an experienced marketing and administrative team already in place.

19. Second, Amcell held a minority interest in the system that it had acquired from original parties to the CMS Cellular Settlement Agreement, so it had a large incentive to maximize revenues and minimize expenses.

20. Third, Amcell was providing switching and maintenance services for the system under the Construction and Switching Agreement.

21. After considering various options, on September 8, 1988, we amended the Construction and Switching Agreement to

provide that Amcell would manage and operate the system, subject to my oversight and control (the "Management Agreement").

22. In September 1988, David Lokting and I travelled to Philadelphia to discuss construction and costs of operating the system. I viewed the potential cell sites and the installed equipment for an Amcell neighboring system cell site. I also visited Amcell's Wilmington switching facility. David Lokting and I reviewed the detailed construction budget and after discussing it with Amcell personnel, I approved it.

23. Shortly thereafter construction commenced. I received regular reports from Amcell during construction, providing full details of all construction expenditures. The agreement I entered into with Motorola for the purchase of the equipment for the Atlantic City cellular system is attached as Exhibit A. I personally approved and signed all the checks for construction expenditures. After construction was completed, the cash disbursement policy was revised to make it more workable.

24. I also approved all cell site leases and tower license agreements. The first approvals were in October 1988.

25. To finance the construction, I decided to seek a loan with Provident Bank rather than seek financing through the vendor, Motorola, or use the loan facility that had been made available by TDS while the FCC application was pending. Amcell introduced us to Provident Bank which at the time was Amcell's own primary lender. Provident Bank was the leading lender to the cellular industry during this period. In November 1988, David

Lokting and I travelled to the East Coast to review the status of construction and to meet representatives of Provident Bank. I had my attorney, David Lokting, negotiate the finer points of the loan documents after we had come to an agreement on the general terms of the loan. I am the sole obligor on the loan. Amcell did not guarantee the loan and it has not provided any financing for the system's construction or operation.

26. The system became operational in July of 1989. The system has been profitable every year since, and presently serves and provides seamless coverage to well in excess of 10,000 customers, as well as countless roamers. Though I have long expected that, depending on the outcome of the civil litigation, either TDS or Amcell would exercise its respective option, it was always my expectation that until the system was sold I would be in a position to receive profits from the system. Accordingly, I have consistently reviewed the system's performance and implemented decisions to maximize its profitability. With the exception of the cellular switch, ETC purchased and holds legal title to all of the cellular equipment utilized in the system.

27. I have continued to oversee the operations of the system. For example, after a discussion of the potential impact on ETC of a decline in subscriber activity at reseller U.S. Cellular, I authorized Amcell to hold informal discussions with U.S. Cellular at the upcoming CTIA convention in New Orleans during February 1992 on the possibility of ETC's purchase of U.S. Cellular's resale customers. (Following Amcell's initial contact

with U.S. Cellular on this subject, I advised Amcell that ETC would deal directly with U.S. Cellular regarding possible purchase of its resale customers.)

28. Every year I review the operating and capital budgets and frequently suggest revisions. I reviewed the capital budget for 1992, for example, questioning the need and timing of the proposed capital expenditures before authorizing Amcell to build two cells on ETC's behalf. I determined that, although Amcell favored sectorization of the cell sites, the system's best interest required that we attempt, if possible, to manage the cell sites without sectorization during 1992. I projected that this decision would increase the system's cash operating margin by \$400,000 to \$500,000 during 1992 without any negative impact on service.

29. In July 1991, David Lokting and I reviewed and discussed with Amcell a proposal for a major agency agreement with Silo, Inc. I initially withheld my approval of the proposal because, after reviewing the proposed agreement, I believed the commission structure was too high. I did not grant my approval until Amcell, at my insistence, provided a comparative analysis of the costs of increasing the customer base through other avenues.

30. In 1992, the system opened a retail sales and installation center in the Shore Mall in Pleasantville, New Jersey, a suburb of Atlantic City. I was heavily involved in the project from the outset. In June of 1991, David Lokting and I

traveled to Atlantic City to inspect the proposed lease site. After approving the site, I directed Amcell to enter into negotiations with the landlord. A proposed lease agreement was presented for my consideration. After my counsel and I reviewed the proposed lease, we had numerous concerns that needed to be addressed. Despite a tight construction schedule, the lease was not signed until these concerns were resolved to my satisfaction. I reviewed and approved the \$300,000 construction budget and approved the financing for the retail site construction through the Provident Bank loan facility. The construction contract was prepared by my counsel, David Lokting, and was between ETC and the contractor. ETC purchased, and is the sole owner of, all the displays, furniture, equipment and telephones for the center. In November, 1994, through my agents, I requested approval of a distribution from Provident. My attorney, David Lokting, provided all the necessary financial information to Provident. David Lokting and I then met with Provident representatives to discuss the request. Provident has now approved the distribution, but the distribution has been put on hold pending the resolution of this proceeding.

31. In December 1994, Amcell received a proposal from AT&T to convert all of Amcell's cellular systems to AT&T equipment. After extensively analyzing AT&T's proposal and reviewing Motorola's equipment pricing and technology, Amcell decided to convert all of its systems to AT&T equipment. Amcell made this decision for two principal reasons: (1) AT&T offered very

attractive pricing and payment terms for its equipment; and (2) the AT&T switch platform was, in the judgment of Amcell's engineering personnel, more advanced, technically superior and less expensive to operate than Motorola equipment. In particular, the AT&T switch platform was better able to accommodate a conversion to digital technology. Accommodating digital technology was especially important in contemplation of new competition that is anticipated to occur from opening up the markets to PCS operators.

32. For these reasons, Amcell decided to switch its systems over to AT&T equipment. This necessarily meant that it would replace its Motorola switch in Wilmington with an AT&T switch. Since Amcell did not intend to operate a Motorola switch any longer, ETC was presented with three options: (1) ETC could purchase its own Motorola switch from Motorola (or a used switch on the market) and install and operate its own switch in Atlantic City; (2) Amcell offered to sell ETC Amcell's Motorola switch and continue to operate the switch out of Wilmington; or (3) ETC could convert to AT&T equipment and continue to purchase switching services from Amcell, using Amcell's AT&T switch.

33. For similar financial and competitive reasons considered by Amcell, I also decided to switch to AT&T equipment. In addition, although ETC operating revenues were projected to be sufficient to fully cover the capital expenditures required for the switch to AT&T equipment, the other options would have required additional expenditures to allow ETC to purchase its own

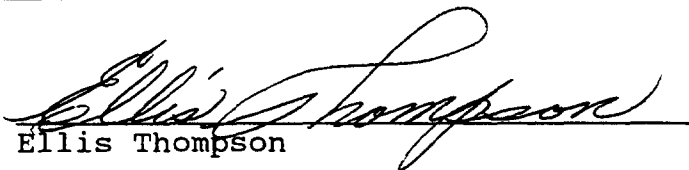
switch and related equipment and facilities. The capital costs of these options was approximately \$2,000,000 greater than the switchover to AT&T equipment, and ETC did not have projected operating revenues sufficient to cover this additional level of capital expenditure. Given the uncertainties created by the Hearing Designation Order and this proceeding, these additional capital expenditures would have been very difficult to finance from other sources. Accordingly, there was an important cash flow element that I took into consideration in making this decision to switch over to AT&T equipment.

34. I am ultimately responsible for all FCC filings pertaining to the system. Amcell forwards any proposed applications or other filings in draft form to my FCC counsel, Fleischman & Walsh. They review the material, make changes as required, and, after my final review and execution, make the appropriate filing with the FCC.

35. I set all policy regarding the operation of the system, including, for example, the establishment of rates for local customers and roamers. I also am in sole control of ETC's prosecution of litigation involving TDS and Amcell before the FCC and the courts. Amcell has never sought to impose its will on me regarding my stance on litigation, and I have always chosen my own path.

I declare, under penalties of perjury under the laws of the United States, that the foregoing is true and correct.

Dated: July 14, 1995, 1995.


Ellis Thompson